

## § 32.6

## 29 CFR Subtitle A (7-1-01 Edition)

transfer shall contain a covenant running with the land to assure non-discrimination for the period during which the real property is used for a purpose for which the Federal financial assistance is extended or for another purpose involving the provision of similar services or benefits.

(2) Where no Federal transfer of property is involved but property is purchased or improved with Federal financial assistance, the recipient shall agree to include the covenant described in paragraph (c)(1) of this section in the instrument effecting or recording any subsequent transfer of the property.

(3) Where Federal financial assistance is provided in the form of real property or interest in the property from the Department, the covenant shall also include a condition coupled with a right to be reserved by the Department to revert title to the property in the event of a breach of the covenant. If a transferee of real property proposes to mortgage or otherwise encumber the real property as security to finance construction of new, or improvement of existing, facilities on the property for the purposes for which the property was transferred, the Assistant Secretary may agree to forbear the exercise of such right to revert title for so long as the lien of such mortgage or other encumbrance remains effective. Such an agreement by the Assistant Secretary may be entered into only upon the request of the transferee (recipient) if it is necessary to accomplish such financing and upon such terms and conditions as the Assistant Secretary deems appropriate.

(d) *Interagency agreements.* Where funds are granted by the Department to another Federal agency to carry out a program under a law administered by the Department, and where the grant obligates the recipient agency to comply with the rules and regulations of the Department applicable to that grant the provisions of this part shall apply to programs and activities operated with such funds.

### § 32.6 Remedial action, voluntary action, and self-evaluation.

(a) *Remedial action.* (1) If the Assistant Secretary finds that a recipient has

discriminated against persons on the basis of handicap in violation of section 504 of this part, the recipient shall take such remedial action as the Assistant Secretary deems necessary to overcome the effects of the discrimination.

(2) Where a recipient is found to have discriminated against persons on the basis of handicap in violation of section 504 of this part and where another recipient exercises control over the recipient that has discriminated, the Assistant Secretary, where appropriate, may require either or both recipients to take remedial action.

(3) The Assistant Secretary may, where necessary to overcome the effects of discrimination in violation of section 504 of this part, require a recipient to take remedial action:

(i) With respect to handicapped individuals who would have been participants in the program had the discrimination not occurred; and

(ii) With respect to handicapped persons who are no longer participants in the recipient's program but who were participants in the program when the discrimination occurred; and

(iii) With respect to employees and applicants for employment.

(b) *Voluntary action.* A recipient may take steps, in addition to any action that is required by this part, to overcome the effects of conditions that resulted in limited participation in the recipient's program or activity by qualified handicapped individuals.

(c) *Self-evaluation.* (1) A recipient shall, within one year of the effective date of this part:

(i) Evaluate, with the assistance of interested persons who are selected by the recipient, including handicapped individuals or organizations representing handicapped individuals, its current policies and practices and the effects thereof that do not or may not meet the requirements of this part;

(ii) Modify, after consultation with interested persons who are selected by the recipient, including handicapped individuals or organizations representing handicapped individuals, any policies and practices that do not meet the requirements of this part; and

(iii) Take, after consultation with interested persons who are selected by

the recipient, including handicapped individuals or organizations representing handicapped individuals, appropriate remedial steps to eliminate the effects of any discrimination that resulted from adherence to these policies and practices.

(2) A recipient, other than a small recipient, shall for at least three years following completion of the evaluation required under paragraph (c)(1) of this section, maintain on file, make available for public inspection, and provide to the Assistant Secretary upon request:

- (i) A list of the interested persons consulted;
- (ii) A description of areas examined and any problems identified; and
- (iii) A description of any modifications made and of any remedial steps taken.

#### **§ 32.7 Designation of responsible employee.**

A recipient, other than a small recipient shall designate at least one person to coordinate its efforts to comply with this part.

#### **§ 32.8 Notice.**

(a) A recipient, other than a small recipient, shall take appropriate initial and continuing steps to notify participants, beneficiaries, referral sources, applicants, and employees, including those with impaired vision or hearing, and unions or professional organizations which have collective bargaining or professional agreements with the recipient, that it does not discriminate on the basis of handicap in violation of section 504 and of this part. The notification shall state, where appropriate, that the recipient does not discriminate in the admission or access to, or treatment or employment in, its programs and activities. The notification shall also include an identification of the responsible employee designated pursuant to § 32.7. A recipient shall make the initial notifications required by this paragraph within 90 days of the effective date of this part. Methods of initial and continuing notification may include the posting of notices, publication in newspapers and magazines, placement of notices in recipient's publications, and distribution of memo-

randa or other written communications.

(b) If a recipient publishes or uses recruitment materials or publications containing general information that it makes available to participants, beneficiaries, applicants, or employees, it shall include in those materials or publications a statement of the policy described in paragraph (a) of this section. A recipient may meet the requirement of this paragraph either by including appropriate inserts in existing materials and publications or by revising and reprinting the materials and publications.

#### **§ 32.9 Administrative requirements for small recipients.**

The Assistant Secretary may require any recipient that provides services to fewer than 15 beneficiaries or with fewer than 15 employees, or any class of such recipients, to comply with §§ 32.7 and 32.8, in whole or in part, when the Assistant Secretary finds a violation of this part or finds that such compliance will not significantly impair the ability of the recipient or class of recipients to provide benefits or services.

#### **§ 32.10 Effect of State or local law or other requirements and effect of employment opportunities.**

(a) The obligation to comply with this part is not obviated or alleviated by the existence of any state or local law or other requirement that, on the basis of handicap, imposes prohibitions or limits upon the eligibility of qualified handicapped individuals to receive services, participate in programs or practice any occupation or profession.

(b) The obligation to comply with this part is not obviated or alleviated because employment opportunities in any occupation or profession are or may be more limited for handicapped individuals than for nonhandicapped persons.

### **Subpart B—Employment Practices and Employment Related Training Program Participation**

#### **§ 32.12 Discrimination prohibited.**

(a) *General.* (1) No qualified handicapped individual shall, on the basis of